

**ADR MECHANISMS: EQUITABLE AND ACCESSIBLE
MODE OF DISPUTE RESOLUTION¹**

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- ⇒ Justice Dr. Pushpendra Singh Bhati, my brother at the Jodhpur Bench of Rajasthan High Court;
- ⇒ My other brother and sister Judges of the High Courts of Rajasthan, Madhya Pradesh, Gujarat and Bombay
- ⇒ Learned Judicial Officers;
- ⇒ Academicians; and
- ⇒ Distinguished Guests

Namaste, and a very good afternoon to all.

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1. Introduction

As the people of Rajasthan warmly say, ‘पधारो म्हारे देश,’ I feel truly welcomed and privileged to be here in this beautiful “स्वर्ण नगरी” of Jaisalmer, a city of *Raas, Raag* and *Rang*. The vast expanse of the Thar Desert reminds us that although the sands of time keep shifting, the human search for justice remains constant. Jaisalmer, where tradition and endurance have stood strong for centuries, gives us a meaningful reminder that while we must preserve the core values of justice, we must also adapt to the needs of a fast-changing world.

It is therefore a special pleasure to join this distinguished gathering at the West Zone–I Regional Conference, where we are reflecting on a subject that lies at the intersection of justice, technology, and human experience: Alternate Dispute Resolution as an equitable and accessible mode of resolving disputes, with thoughtful use of technology as its facilitator. In a justice system as vast and complex as ours, the relevance of ADR is no longer peripheral. It is central to fulfilling our constitutional vision of justice.

2. Justice as a Constitutional Commitment

The Constitution of India does not merely establish courts; it embodies a promise – *justice for all*. This promise is not confined to legal correctness or procedural compliance. It is fulfilled only when justice is accessible, timely, humane, and meaningful.

Access to justice, as repeatedly recognised by the Supreme Court, is an essential component of Article 21. Yet, in a nation of our size and diversity, access cannot be equated simply with the availability of courts. If a citizen must spend years navigating procedure, incur prohibitive costs, and endure emotional exhaustion merely to vindicate a modest right, the constitutional promise stands diluted.

It is this gap between constitutional aspiration and lived reality that compels us to rethink how disputes are resolved. ADR mechanisms respond to this constitutional challenge not as substitutes for courts, but as partners in achieving justice.

3. From “Alternative” to “Appropriate” Dispute Resolution

For several years, we have spoken of ADR as an “alternative” to the mainstream justice system. In the Indian context, this description is not enough rather unsatisfactory or insufficient. I believe the time has come to consciously reframe this understanding. ADR is not merely an “alternative”, but often the “appropriate” mode of dispute resolution.

The idea that disputes should be resolved through dialogue rather than domination is not new to our society. It is part of our civilisational consciousness. Our legal tradition did not begin with courtrooms. It began with community dialogue, panchayats, and consensual resolution. Our social structures and philosophical

traditions have long emphasised *samvaad* (संवाद) , *samjhauta* (समझौता), and *sahmati* (सहमति) as instruments of peace.

In our ancient texts, there is a beautiful concept of the “Panch Parmeshwar”. The belief was that when five elders sat to resolve a dispute, God spoke through them. Why? Because their goal was not to interpret a technical law, but to restore social harmony.

Litigation, though necessary in many cases, is inherently adversarial. It seeks finality through victory. ADR, by contrast, seeks harmony through understanding. It recognises that disputes are not always legal contests; they are frequently human conflicts embedded in social, commercial, or familial relationships.

There is an ancient reflection that captures this philosophy: “जितं सर्वम् आत्मना”, **i.e.**, he who conquers his own self, conquers all. In prolonged litigation, parties may win decrees, but often lose time, peace, and relationships. In mediation or conciliation, when parties temper ego and accept reason, both sides often emerge with dignity intact. ADR therefore restores balance, not just between parties, but between law and life.

4. Equity: The Moral Strength of ADR

Equity forms the moral backbone of ADR. Equity does not imply leniency; it implies fairness informed by context, sensitivity, and lived realities. While adjudication necessarily operates within defined legal boundaries and prescribed outcomes, equity allows justice to respond to the human dimensions of a dispute, dimensions that statutes and precedents cannot always fully capture.

ADR processes such as mediation and conciliation create a space where parties are not confined to adversarial legal positions but are encouraged to articulate their real concerns, expectations, and limitations. This shift, from asserting rights to understanding interests, often reveals that disputes are less about legal entitlements and more about communication breakdowns, perceived injustice, or emotional injury. Such processes are particularly valuable in disputes where the preservation of relationships is as important as the resolution of issues.

Our courts have long recognised that justice is not invariably served by outcomes that produce a clear victor and a defeated adversary. A decree may terminate litigation, but it does not necessarily end conflict. Equitable justice, on the other hand, seeks to restore balance, dignity, and a sense of closure. It resolves disputes without deepening hostility, and often achieves voluntary compliance and lasting peace.

Mahatma Gandhi, whose legal philosophy was deeply rooted in reconciliation rather than confrontation, expressed this idea with remarkable clarity: *“The true function of a lawyer is to unite parties riven asunder.”*

This reflection captures the enduring relevance of ADR. It reminds us that the law, at its highest, is not merely a system for determining who is right or wrong, but a means to heal divisions, reduce suffering, and promote social harmony. In that sense, equity is not merely an adjunct to ADR, it is its very soul.

5. Accessibility: Justice Beyond Courtrooms

The preamble of our Constitution promises "Justice: Social, Economic, and Political." Article 39A mandates the State to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Accessibility must be understood holistically. It is not confined to the physical ability to enter a courtroom or the formal availability of legal remedies. True accessibility encompasses affordability, procedural simplicity, timely resolution, dignity of participation, and emotional reassurance for those who seek redress. A justice system that is technically open but practically inaccessible fails its constitutional purpose.

ADR mechanisms address these concerns directly and effectively. By reducing costs, simplifying procedures, and minimising delays, ADR lowers the threshold at which an individual can seek justice. In many cases, especially involving small

claims, family disputes, or labour concerns, the conventional litigation process may be disproportionate to the nature of the dispute. For such citizens, ADR is not simply an alternative forum; it is the most practical and humane route to justice.

In *Salem Advocate Bar Association v. Union of India*, the Supreme Court categorically acknowledged that ADR mechanisms are integral to the justice delivery system and essential for reducing judicial burden while enhancing fairness.

Justice must be understandable to those whom it serves and realistically attainable by them. A legal system that appears distant, complex, or intimidating risks losing the trust of the public. When disputes are resolved with dignity, sensitivity, and reasonable expedition, confidence in the justice delivery system is strengthened. Public faith in the rule of law depends not merely on the correctness of decisions, but on the citizen's experience of fairness and inclusion. Accessibility, therefore, is not a peripheral concern, it is foundational to the legitimacy of our justice system.

6. The Indian Context – Lessons from History

We must remember that mediation is deep-rooted in our history. Our philosophical and cultural traditions consistently warn against prolonged conflict.

Our ancient Indian wisdom, as enshrined in Kautilya's Arthashastra, advises that true stability is achieved through agreement and not force. Kautilya's fourfold strategy of sama (conciliation), dana (offer), bheda (division), and danda (force) teaches that dialogue and persuasion must always precede coercion. The ideal leader, he said, is one who "wins peace without war." His philosophy remains timeless, that true negotiation begins with understanding, not confrontation.

The Manusmriti also prioritizes reconciliation and negotiation, advocating them as necessary steps to be exhausted before resorting to force or conflict. This ancient wisdom reflects a moral truth: that justice achieved through dialogue preserves harmony, while victory through force breeds only resentment.

In Ramayana, Angad's dialogue with Ravana serves as a pivotal moment of strategic negotiation. Sent as an emissary by Lord Rama, he carried a final message of peace and the opportunity for reconciliation before the war, highlighting the enduring power of dialogue in resolving conflicts, eloquently expressed in the following lines:

हे वानर! तू कौन है, क्या है तेरा नाम?

इस शुभ मुहूर्त में क्यों आया, क्या है तेरा काम?

हे रावण! मैं अंगद, वानरराज बाली का पुत्र,

श्रीराम का दूत हूँ, लाया शांति का संदेश सुदृढ़।

यदि सीता माता को लौटाकर संधि तू अपनाए,
सुख-शांति बरसेगी, प्रलय की छाया टल जाए।

किंतु हठ न छोड़े, राम का संदेश ठुकराए,
प्रलय आएगी निश्चित, धन-लाभ स्वप्न बन जाए।

The epic of Mahabharata serves as history's greatest lesson: when mediation is rejected, war is inevitable. Lord Krishna went to the court of the Kauravas as a mediator (Doot), carrying a message of peace before the war, beautifully captured in these lines:

मैत्री की राह बताने को, सबको सुमार्ग पर लाने को,
दुर्योधन को समझाने को, भीषण विध्वंस बचाने को,
भगवान् हस्तिनापुर आये, पांडव का संदेशा लाये।

दो न्याय अगर तो आधा दो, पर, इसमें भी यदि बाधा हो,
तो दे दो केवल पाँच ग्राम, रक्खो अपनी धरती तमाम।
हम वहीं खुशी से खायेंगे, परिजन पर असि न उठायेंगे!

Duryodhana refused Lord Krishna's peace offering, saying he would not give even a needle-point of land. The mediation failed, and thus, the result was total destruction.

The spirit of mediation is perhaps best reflected in the timeless wisdom of Sant Kabir, who reminds us that conflict often survives not because of the strength of the dispute, but because of our unwillingness to look inward. He writes: **“बुरा जो देखन मैं चला, बुरा न मिल्या कोय, जो दिल खोजा आपना, मुझसे बुरा न कोय।”**

Mediation creates precisely such a space, one where parties are encouraged to pause, introspect, and recognise their own role in the continuation of conflict. Mediation fosters an inward shift from accusation to understanding. It is this introspective quality that enables disputes to dissolve at their root, rather than merely reaching a conclusion.

In this profound sense, ADR does not merely settle disputes; it transforms perspectives. It replaces the pursuit of fault with the pursuit of resolution, and confrontation with comprehension. This aligns perfectly with the ancient wisdom of systems like the Panchayat, where the goal was always communal harmony and balance, not victory for one side over another.

7. Technology as an Enabler, Not the Driver

While my focus is on the mechanism of ADR, I must touch upon the theme of our conference: *Technology*. Technology assumes significance in ADR not as a novelty, but as a means to further the foundational goals of equity and accessibility. Traditional ADR mechanisms, though effective, often remain geographically and institutionally limited. Technology serves as the *Sanjeevani*, it revives the dying hope of the distant litigant. It carries dispute resolution to places where physical systems cannot always reach.

Online Dispute Resolution has demonstrated how justice can transcend geography. A small trader, a consumer, or a farmer should not be compelled to travel long distances for minor disputes. Technology enables participation without dislocation. In that sense, ODR strengthens the democratic character of justice.

We can notice how Digital Lok Adalats, online mediation platforms, and pre-litigation settlements are resolving disputes efficiently and with dignity. The Supreme Court E-Committee has been working tirelessly to integrate these systems. Decisions such as *Afcons Infrastructure* and *M.R. Krishna Murthy*, have encouraged structured settlement mechanisms. Technology allows us to give practical effect to that vision.

At the same time, we must remember that technology should serve justice, not control it. Digital tools must not favor the privileged. If systems are too complex, exclusive, or ignore language and social differences, they can create the same inequalities in a digital form. Technology must therefore be simple, inclusive, multilingual, and supported by institutions. Otherwise, technology will cease to function as a helping bridge and instead can become another barrier to justice.

8. The Role of Human Judgment in the Digital Age

As ADR mechanisms increasingly engage with intelligent decision-support systems and AI-assisted tools, constitutional and ethical vigilance becomes essential. Technology can undoubtedly assist in organising information, identifying possible settlement ranges, and enabling parties to assess realistic outcomes. Used appropriately, such tools can improve efficiency and informed decision-making.

However, justice is not a calculation, nor is it a purely data-driven exercise. It involves human values - empathy, proportionality, and contextual understanding - that resist algorithmic standardisation. The Supreme Court has repeatedly emphasised that discretion and judgment are integral to the judicial process and cannot be surrendered to mechanical or automated reasoning.

The traditional idea of *Panch Parmeshwar* reflects this enduring truth - that justice flows from collective human conscience rather than computation.

Algorithms may analyse patterns, but they cannot perceive suffering, vulnerability, or imbalance of power. These are human realities that must remain central to dispute resolution.

Technology must therefore function as a facilitator of *samvaad* (meaningful dialogue), not as a substitute for moral reasoning. It should support communication, deepen understanding, and assist resolution, while the final responsibility for justice remains firmly with human decision-makers. In an increasingly digital age, preserving the human character of justice is not a hesitation before progress, but its most essential safeguard.

9. Shared Responsibility: Institutional Commitment and Societal Participation

For Alternate Dispute Resolution to realise its full potential, particularly in its technology-enabled forms, it requires sustained and coordinated commitment, not only from institutions but also from society at large. Innovation in dispute resolution cannot succeed in isolation. Online Dispute Resolution platforms must be thoughtfully integrated within existing court ecosystems, so that ADR functions not at the margins, but as a seamless, reliable, and credible component of the justice delivery system.

At the same time, access to justice is not the responsibility of institutions alone. As a society, we must also rethink our instinct to immediately resort to litigation.

Not every disagreement needs to be brought before a court. In matters such as matrimonial discord, family disagreements, neighbourhood conflicts, and intra-community disputes, early dialogue and consensual settlement can prevent conflicts from escalating. Encouraging conversations, negotiation, and mediation at the earliest stage helps maintain social harmony and preserves relationships that might otherwise be damaged beyond repair.

Courts are designed to decide rights; they are seldom the ideal forum to heal emotional wounds and repair social bonds. To make this approach more effective, we should encourage the establishment of social groups, community-based forums, and local mediation panels that offer guidance and a safe space for early resolution of disputes. These platforms can foster dialogue, mediate differences, and build mutual understanding before conflicts escalate to the courtroom.

Pre-litigation settlement, therefore, must be seen not as a procedural formality, but as a collective social responsibility: a way for communities, families, and social groups to take ownership of resolving their differences while strengthening the bonds that hold society together.

Capacity building remains central to this endeavour. Judges, lawyers, mediators, and court personnel must be equipped not merely with technical competence, but with a deep understanding of the philosophy, ethics, and psychology underlying ADR. Technology may provide the infrastructure, but it is human skill, empathy, and sensitivity that give ADR its substance. Training programmes must therefore

address digital literacy alongside mediation ethics, constitutional values, and effective communication.

The role of the legal profession is particularly significant in shaping this shift. Lawyers must increasingly see themselves not only as adversaries engaged in contest, but as problem-solvers entrusted with the resolution of human conflict. A negotiated settlement should never be perceived as a professional failure or compromise of duty. On the contrary, facilitating an equitable, timely, and dignified resolution that preserves relationships and conserves judicial resources represents one of the highest forms of legal service.

Further, Judicial academies occupy a pivotal position in nurturing this cultural transformation. By shaping professional mindsets at an early stage, they can foster an ethos where efficiency coexists with empathy, and legal expertise operates alongside ethical responsibility. In this context, capacity building must be comprehensive and forward-looking. It must integrate technology, fairness, constitutional purpose, and social sensitivity into a unified vision of justice.

Equally important is the creation of strong, credible mediation frameworks beyond the courtroom. Panels comprising retired judges, former senior civil servants, and other respected and trained professionals can play a vital role in pre-litigation and community-based dispute resolution. Such individuals bring not only experience and authority, but also public trust, often making them uniquely positioned to guide parties towards reasoned and voluntary settlement.

Ultimately, capacity building must be comprehensive. It must weave together community responsibility, institutional support, technological tools, and constitutional purpose into a single, unified vision of justice.

The goal is an accessible and equitable system where society, institutions, and legal professionals all work in harmony, collectively championing lasting resolution over protracted conflict.

10. Conclusion: Justice as Resolution, Not Merely Decision

As I conclude, I want to leave this august gathering with a reflection on our shared role as judges and lawyers.

We have long been known as “Officers of the Court.” But in this era of transformation, perhaps it is time we embraced a higher calling: to become “Architects of Peace.” For the ultimate purpose of our legal system transcends the mere delivery of judgments. Its noblest aim is the preservation of social harmony.

While a judgment brings finality to a case, a genuine resolution achieves much more. It restores fractured relationships, disarms hostility, and heals communities. This is the profound shift we must champion.

The Rig Veda embodies the very spirit of dispute resolution: “समाच्छुधं सम्वदधं सम्वो मनांसि जानताम्।”, i.e., *Move together, speak together, let your minds be in harmony.*

Let this be our guiding motto. Let us redefine ADR, not as the “Alternate” mode, but as the “Primary” mode of justice and resolution. Let us ensure that when a citizen knocks on the doors of justice, they are welcomed not with a sword of contention, but with a shield of equity and a hand of friendship.

By weaving Alternate Dispute Resolution into the fabric of our legal system and supporting it with thoughtful technology, we align enduring civilisational values with contemporary tools. We shift the paradigm of justice from adjudication to accord, from confrontation to consensus. And we must build this system together, empowering our communities to seek resolution first, and calling upon the wisdom of our elders and retired professionals to guide the way.

This conference, a collaborative endeavour of the National Judicial Academy and the Rajasthan High Court, represents a crucial step towards societal harmony. By marrying the ancient spirit of consensus with the modern speed of technology, we can create a justice delivery system that is both Smart and Sensitive - efficient in process, yet profound in its humanity.

Let us therefore pledge: to make our courts a last resort, not the first port of call.

Let us empower every citizen to resolve their disputes with dignity, accessibility, and lasting fairness.

For as our ethos reminds us:

“न्याय वही जो सर्वसुलभ हो, और समाधान वही जो स्थायी हो।” i.e. *True justice is that which is accessible to all, and true resolution is that which endures.*

Thank you for your patient attention. It has been a privilege to share these thoughts with you.

जयति जयति जय ममः भारतम